

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DARRYL L. LICUDINE,

Plaintiff(s),

No. C 03-2380 MHP

v.

SAN FRANCISCO SHERIFF'S  
DEPARTMENT, et al.,**ORDER DISMISSING COMPLAINT  
WITH PREJUDICE**

Defendant(s).

Plaintiff filed this action *pro se* on May 21, 2003, claiming under 42 U.S.C. section 1983 that members of the San Francisco Sheriff's Department used excessive force causing him injuries while he was in their custody. Thereafter, an attorney appeared in the action to represent plaintiff and the attorney filed an amended complaint on October 10, 2003. Scheduling of motions, discovery and its completion, pretrial and trial dates were set.

Early in 2005, plaintiff's attorney moved to withdraw. Ultimately, given plaintiff's failure to cooperate with his attorney and plaintiff's own representations that he had fired his lawyer, the court granted the motion to withdraw. Before withdrawal was granted, counsel remained in the case to complete service of process on all defendants and to assist plaintiff in a settlement conference.

Both during the time plaintiff was represented and since the time of counsel's withdrawal, it has been clear that plaintiff not only failed to cooperate with his lawyer, but also failed to properly respond to discovery. Plaintiff was repeatedly instructed by his attorney and by the court that he needed to cooperate in discovery. The record reflects that defendants had to move to compel plaintiff to attend his deposition. In fact, it was shortly thereafter that plaintiff's attorney moved to withdraw.

Post-withdrawal, defendants moved to dismiss the action in part because of plaintiff's failure

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to fully and properly answer interrogatories. The court instructed plaintiff that he must answer all interrogatories clearly and fully. Again, plaintiff failed to do so and defendants renewed their motion. Plaintiff failed to file any opposition to the motion, in addition a number of the defendants remained unserved despite repeated instructions by the court that proper service must be effected.

It appears from the hearings before the court that plaintiff had grandiose notions of his case. Despite in his answers to interrogatories not being able to specify any income from employment or damages sustained from his alleged injuries, plaintiff insisted he was entitled to an award in the millions of dollars. Ultimately, plaintiff failed to make good on any of the evidence that would support a claim, let alone a claim of such an amount. He failed to provide the necessary interrogatory answers to support his claim. He submitted nothing in opposition to defendants' motion to dismiss. He has had ample opportunity to participate in these proceedings and to comply with the court's orders. He has failed on both counts.

Therefore, for the reasons stated above

IT IS HEREBY ORDERED that the complaint in this action is DISMISSED in its entirety and as to all named defendants with prejudice. The Clerk of Court shall close the file.

Dated: November 16, 2005

DISTRICT COURT

  
MARILYN HALL PATEL  
Judge  
United States District Court  
Northern District of California